

**REMARKS****I. Status of the Claims**

Claims 1-7 and 10 are pending in the application. Claim 2 has been amended limiting the claim to the treatment of the listed diseases. Claim 5 has been amended to depend from Claim 1. No new matter has been entered.

**II. Rejection of Claims 1, 2, 6, 7 and 10 Under 35 U.S.C. § 103(a)**

The rejection of claims 1, 2, 6, 7 and 10 under 35 U.S.C. 103(a) as being obvious in view of Elnima et al., *Antimicrobial Agents and Chemotherapy*, is respectfully traversed.

The Elnima reference discloses six (6) benzimidazole and benzoaxazole derivatives studied in vitro for their antibacterial and antifungal activities. On page 4, paragraph 5 of the pending Office Action, the Examiner refers to compounds III, V and VI of the Elnima reference and states that the referenced compounds differ only from the compounds of the invention at hand by a sulfur atom. Applicant respectfully submits, that according to the authors of the Elnima reference, only compounds II and III of that reference were found to be active. The rest of the tested compounds were found to be inactive. See page 29, synopsis, lines 3-4. Also see page 30, RESULTS AND DISCUSSION, 1<sup>st</sup> paragraph, last 2 lines. Accordingly, Applicant submits that with regard to compounds V and VI of the Elnima reference, there would be absolutely no motivation to modify those compounds as suggested by the Examiner, since those compounds were not found

to be inactive. With regard to compound III of the Elnima reference, in order for the compound of the present invention to be analogous to that compound, R2 of the compound of the present invention would have to be an amino benzene, a structure which is not claimed in the present invention. Accordingly applicant submits that the compounds of the present invention are not obvious in view of Elnima, and, therefore, requests that the Examiner withdraw the objection under section 103(a) and allow the present application to issue.

**CONCLUSION**

In view of the foregoing discussion, it is respectfully submitted that the present invention as defined in the pending claims 1-7 and 10 is in full compliance with all the statutory requirements and, therefore, it is earnestly requested that the Examiner's rejections be withdrawn and that the pending claims be allowed in their present form.

Respectfully submitted  
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**CERTIFICATE OF TRANSMISSION**

I hereby certify that this Amendment is being submitted to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 via EFS-Web on August 7, 2007.

  
Audrey de Souza